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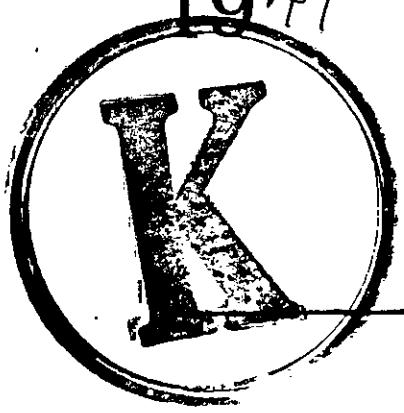

File No. O. payment of wages /47

Legal **DEPARTMENT**

A **BRANCH**

Subject:— Opinions under the payment of wages Act 1936.

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C O N T E N T S.

Legal Department File No.O.Payment of Wages/1947.

Sr.No.	Compilation No.	Subject.	Pages.
		Opinions under the payment of Wages Act, 1936.	
1.	O.No.2059/1.3.47	Sec.11 dt. Sec. 7(2)(e) Question whether deduction should or should not exceed an amount equivalent to the value of the amenity.	1-4.

16-5-52

Submitted;

2. Messrs. Lever Brothers (India) Ltd, have started a Sports Club for the recreations of their employees and have requested permission to deduct the monthly subscription from the wages of their employees for the purpose of section 7 of the Payment of Wages ~~xx xx~~ Act, 1936. Membership of the Sports Club is voluntary and the rate of monthly subscription proposed is annas four on a basic salary upto Rs.100/- and annas eight between Rs.101/- and Rs.300/-. The D.P., P. and S.P. is inclined to grant the Company's request by issuing an Order under section 7(2)(e) of the Payment of Wages Act but since he sees a technical difficulty in view of section 11 of the Act which lays down that the deductions must not exceed the value of the amenity supplied he has referred the papers to the R.L.A. as regards the propriety of the issue of such order.

3. Sub-section (1) of section 7 of the Payment of Wages Act, 1936, provides inter alia that the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under the Act. Sub-Section (2) thereof provides that deductions shall be made only in accordance with the provisions of the Act and may be of the various kinds mentioned therein. Clause (e) in this sub-section authorises deductions for such amenities and services supplied by the employer as the Provincial Govt. may, by General or special order, authorise. Section 11 of the said Act inter alia provides that a deduction under clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person, unless the amenity or service has been accepted by him, as a term of employment and such deduction shall not exceed an amount equivalent to the value of the amenity or service supplied and shall be subject to such conditions as the Provincial Govt. may impose. The

difficulty the D.S., P. & S.D. has in view is that an employee from whose wages a deduction of annas four per month is made will receive the same amenity as another employee from whose wages a deduction of eight annas per month is made, and therefore the values in respect of the same amenity will differ. This difficulty can however be tided over by a condition in the draft Order at page 3 ante to the effect that "and that the amenity supplied to employees shall be proportionate to such deductions" to be in consonance with section 11of the said Act. It appears therefore that there is no legal objection to the issue of the Order.

4. The question regarding granting permission to deduct the monthly subscription from wages of the employees in the matter of Messrs. Hindustan Vanaspati Mfg. Co.Ltd. referred to in para 3 of the P. & S.D. note on p.7 ante doesnot seem to have been referred to the R.L.A. But kindly see the draft sent to the P. & S.D. along with R.L.A.'s No.5692, dated the 27th June 1941, wherein the R.L.A. has approved of deductions to be made for "Use of Railway Clubs" "Use of Railway Institutes" etc.

Id./ 8.2.

A.S. I agree.

In pursuance of clause (e) of sub-section (2) of section 7 of the Payment of Wages Act, 1936, the Govt. of India have also issued Notification No.L.3070, dated 28.3.1937 authorising the following as amenities and services for which deductions from the wages of persons employed by a railway administration can be made, namely--

Vide p.15 of Payment of Wages Act by Sarin.

Office of the R.L.A.

Under section 11 read with clause (c) of section 7(2) of the Payment of Wages Act, 1936 what is necessary is that the deduction should not exceed an amount equivalent to the value of the amenity. It is true that if the rate of monthly subscription proposed is "(A) annas four on a basic salary upto Rs.100 and (b) annas eight between Rs. 101 and Rs.200" and if the amenity is the same, the value of such amenity would be relatively greater to those in class (a) than to those in class (b); but that appears to be immaterial for purposes of section 11 provided the subscription paid by those in class (b) does not exceed an amount equivalent to the value of the amenity, though such amenity is common to members in both classes (a) (b).

Sd/ -
Remembrancer of Legal Affairs.

U.O.S. to P. & S.D. No.3059 dt. the 1st March 1947.